

September 15, 2003

United States Environmental Protection Agency  
Water Docket  
1200 Pennsylvania Avenue, NW  
Mail Code: 4101T  
Washington, D.C. 20460

**RE: Docket ID No. OW-2003-0063**  
**Comments on Guidance on Application of Pesticides to Waters of the**  
**United States in Compliance with FIFRA**

Kentucky Farm Bureau submits these comments to the Environmental Protection Agency's notice and request for comment on the "Interim Statement and Guidance on Application of Pesticides to Waters of the United States in Compliance with FIFRA," published August 13, 2003. In this notice, the U.S. Environmental Protection Agency (EPA) interpreted the Clean Water Act (CWA) to resolve jurisdictional issues pertaining to pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Kentucky Farm Bureau represents more than 79,000 farm families in the Commonwealth of Kentucky. Our membership includes farmers who depend upon pesticides to produce high-quality, low-cost food. We appreciate the opportunity to present the following comments.

Kentucky Farm Bureau is pleased with the position of the EPA that the application of pesticides registered under FIFRA, when used in accordance with the label, does not require a NPDES permit under the Clean Water Act. As mentioned in EPA's guidance, the U.S. Court of Appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, caused a great deal of concern for a number of groups, including Kentucky Farm Bureau. If the holding of this case were strictly applied in Kentucky, there would be terrible implications for Kentucky agriculture. Farmers would face both increased costs and decreased productivity—causing a dramatic and perhaps insurmountable loss to a farmer's bottom line.

Kentucky Farm Bureau applauds EPA's astute guidance on this issue and urges EPA to expand this guidance and issue a policy statement that effectively retains FIFRA, and not the CWA, as the operative statutory and regulatory authority over pesticides used in water. Once again, we appreciate this opportunity to comment and await the final rule.

Sincerely,

Kori Jones  
Director, Natural Resources

KBJ/sje